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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/611,037	07/06/2000	Andras Kurthi	LAMIP077A	5329
25920	7590	10/08/2003	EXAMINER	
MARTINE & PENILLA, LLP 710 LAKEWAY DRIVE SUITE 170 SUNNYVALE, CA 94085			ALEJANDRO MULERO, LUZ L	
			ART UNIT	PAPER NUMBER
			1763	

DATE MAILED: 10/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	<b>Application No.</b> 09/611,037	<b>Applicant(s)</b> KUTHI ET AL.	
	<b>Examiner</b> Luz L. Alejandro	<b>Art Unit</b> 1763	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 04 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☒ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
 Luz L. Alejandro  
 Primary Examiner  
 Art Unit: 1763

Continuation of 5. does NOT place the application in condition for allowance because:

Regarding the rejection under 35 USC 112, second paragraph, the examiner respectfully submits that the term "high aspect ratio" has not been defined by the specification with sufficient specificity so that one of ordinary skill in the art could determine the metes and bound of the claims which include this term. Also note that what is meant by the term "high aspect ratio" can vary from disclosure to disclosure, so the fact that this is mentioned in one disclosure does not mean that the term has the same definition in the instant application. For these reasons, this rejection is maintained.

With respect to the rejections under 35 USC 103, note that the declaration under 37 CFR 1.132 has not been presented in a timely manner and therefore will not be given consideration at this late stage of the prosecution. Furthermore, note that the examiner's rationale for inherency was gleaned from applicant's disclosure at page 13, lines 22-24 when applicant states that "Because the electrode opening 202b have increased to be at least equal to or greater than about 0.5mm, a plasma sheath 231 is caused to shift into the electrode openings 202b.". Again, for these reasons, it is believed that the examiner has provided a prima facie inherency argument which has not been effectively rebutted by applicant. Regarding the Tomita et al. reference, the small openings in the cathode plate have a dimension of 0.6mm which, according to applicant's specification, is sufficiently large to allow plasma to shift into these holes, whether this effect is desirable or not. Concerning the use of the Chang et al. reference and combining this reference with the Tomita et al. reference, it does not appear that modifying Tomita et al. with Chang will render Tomita et al. unsatisfactory for its intended purpose, since the portion relied upon by applicant (col. 2-lines 46-52 of Tomita et al.) is intended only to prevent a polymer by-product resulting from the plasma from being in the small hole and says nothing about preventing plasma itself. In fact, it appears that it is the speed of the gas in the hole which suppresses the deposition of the polymer, and a link between plasma flowing in the hole and polymer deposition has not been made. Furthermore, the examiner believes the motivation to combine the Tomita et al. and Chang et al. references is clearly laid out in the final rejection mailed 6/4/03..